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**NEW JERSEY DEPARTMENT OF THE TREASURY**

**LOCAL GOVERNMENT BUDGET REVIEW**

**MERCER COUNTY IMPROVEMENT AUTHORITY**

**CHRISTINE TODD WHITMAN**  
*Governor*

**ROLAND MACHOLD**  
*State Treasurer*

**JANE M. KENNY**  
*Commissioner*  
*Department of Community Affairs*

**ROBERT C. SHINN, JR.**  
*Commissioner*  
*Department of Environmental Protection*

**SEPTEMBER, 2000**

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## INTRODUCTION

On May 1, 1997, the United States Court of Appeals for the Third Circuit affirmed a District Court Ruling that a principal element of the State of New Jersey's waste flow control regulations, specifically N.J.A.C. 7:26-6.5, are unconstitutional as they discriminate against out-of-state operators of waste disposal facilities. The Third Circuit also eliminated two-year transition period, established by the district court. On November 10, 1997, the United States Supreme Court denied the State's petition for certiorari such that the Third Circuit's decision is final. In order to provide an orderly transition to waste disposal options, each of the state's 21 counties and the Hackensack Meadowlands Development Commission must reevaluate its solid waste strategy and develop plans that address their own specific long-term solid waste disposal needs.

The federal court decisions have had an immediate pricing impact on disposal rates in the region. Public and private landfills, along with the five Resource Recovery Facilities (RRF) in the state, have reduced solid waste tipping fees in an attempt to become market competitive and sustain their current share of solid waste. This reduction in the tipping fee is having an impact on the ability to continue to provide environmentally sound solid waste disposal services at the lowest possible cost. Long term planning for solid waste disposal services is vital to satisfy the dual obligations to dispose of solid waste in an environmentally responsible manner and to minimize solid waste disposal costs. Tipping fees must become market competitive, and special revenue sources will be required until the county or county authority can implement the plans necessary to streamline their costs while meeting all their operations and debt service requirements.

## **OPPORTUNITIES FOR CHANGE**

### **Solid Waste Partnership Program The Report of the Mercer County Improvement Authority Budget Review Team**

In response to the Atlantic Coast decision, the Whitman Administration established the Solid Waste Partnership Agreement Program to assist counties and county authorities to streamline operating costs, temporarily stabilize tipping fees, and reevaluate long term waste management strategies.

As part of the Solid Waste Partnership Agreement Program, the state budget authorizes the State to “subsidize county or county authority debt service payments for environmental investments incurred as of June 30, 1997...in accordance with criteria and program guidelines established by the Commissioners of DEP, DCA and the State Treasurer... Expenditure of such funds is conditioned upon the State Treasurer having conducted or contracted for an operational audit of such county or county authority, and such county or county authority having implemented the audit recommendations to the satisfaction of the State Treasurer.”

The focus of the Partnership Agreement Program utility reviews is short term; it is intended to help counties and county utility authorities maintain the ability to meet debt obligations in a changing market, while developing and implementing long term operational plans. The efforts to reduce the cost of solid waste disposal have focused on the re-negotiation of existing agreements, administrative reductions and the possible retirement and/or restructuring of outstanding obligations. The county or county authority must also maximize all other income potential to mitigate unanticipated market changes.

This review and report was completed in response to the Mercer County Improvement Authority ("MCIA") choosing to participate in this special review program. This is the first step in the process of the state assisting authorities in the reevaluation of solid waste strategies. This report provides a starting point for ongoing discussions between the MCIA, its professional staffs, consultants, facility operator, the County and the State in order to develop a final partnership agreement. A final Partnership Agreement will be executed by the Department of Treasury, the Department of Community Affairs (NJDCA), and the Department of Environmental Protection (NJDEP), the County of Mercer and the MCIA the implementing agency for solid waste in Mercer County.

## **BACKGROUND**

The Mercer County Board of Chosen Freeholders is charged with the formulation and implementation of a plan for solid waste management for Mercer County under the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et. seq. The board designated the MCIA as the agency to develop and implement the county's solid waste management plan. The MCIA is, thus, the mechanism that drives the solid waste collection system in Mercer County.

The original Solid Waste Management Plan, adopted by the county on June 6, 1979, and subsequently approved by NJDEP on November 30, 1979, provided for the development of an integrated approach to solid waste management which included the maximum reliance on resource recovery. On October 14, 1986, the county adopted an amendment to the plan that called for the construction of a resource recovery facility to be located on Duck Island in Hamilton Township. This amendment was approved by NJDEP on April 6, 1987. In addition, the MCIA executed a License Agreement with Geological Reclamation and Operations Waste Systems, Inc., WMI Properties, Inc. and Waste Management of Pennsylvania, Inc. providing the right to dispose of up to 4,500,000 tons of solid waste during the term of the Agreement. The Authority paid \$30 million for these rights.

Following the District Court's ruling in the Atlantic Coast case invalidating DEP's statewide flow control regulations, Mercer County considered establishing a voluntary system for the utilization of the resource recovery facility. However, on November 7, 1996, the Board of Chosen Freeholders voted not to approve a Plan Amendment that would have established such a voluntary system. With the decision not to proceed with the development of a resource recovery facility and the Appellate Court's affirmation of the Atlantic Coast decision in May, 1997, the MCIA began to develop an alternative waste management system.

The MCIA incurred significant costs in the initial development and preparation for a resource recovery facility and an in-county backup ash landfill. The MCIA had executed a service agreement with Ogden Martin Systems of Mercer, Inc. to construct a facility large enough to process both Mercer County and Atlantic County Waste. Due to the decision by the Board of Chosen Freeholders not to proceed with the resource recovery facility and backup landfill, the MCIA found it necessary to issue \$44.98 million in County Guaranteed Solid Waste Abandonment Bonds to provide for the costs associated with calling the outstanding resource recovery bonds, a contractually mandated termination fee with Ogden Martin, capitalized interest and costs of issuance.

On August 21, 1997, the Mercer County Board of Chosen Freeholders adopted an amendment to the Mercer County District Solid Waste Plan by unanimous vote (Mercer County Ordinance No. 97-12). This Plan Amendment called for:

- Amendment of the License Agreement between the Mercer County Improvement Authority and Geological Reclamation Operations and Waste Systems, Inc., WMI Properties Inc. and Waste Management of Pennsylvania. Since the Waste Management landfills are located outside the State of New Jersey and they were procured in a constitutionally permissible manner, this License Agreement is not adversely affected by the Atlantic Coast decision.
- Reprourement of Transfer Station and Transportation Services to GROWS.
- Methodology for Recovering Stranded Investment Costs. Stranded investment costs are collected at the transfer station as a component of the overall-tipping fee.
- Enforcement.

In an order issued November 10, 1997 by NJDEP, the Amended Landfill Licensing Agreement was approved, and the re-procurement of transfer station and transportation was approved with modification contingent upon receipt of documents awarding a non-discriminatory bid contract. This contract was awarded on November 24, 1997 and approved by NJDEP in a letter dated January 15, 1998. In this letter, NJDEP permits Mercer County to direct all solid waste, which includes yard waste, to the Mercer County Transfer Station located in Ewing Township.

Documents provided by the MCIA and NJDEP, including a legal opinion issued by the authority's special counsel indicating the amended solid waste plan complies with the Atlantic Coast decision, set forth the reestablishment of solid waste flow control in Mercer County. The amended plan results in a legally permissible solid waste system which enables the MCIA to charge and collect tipping fees in sufficient amounts to cover the cost of operation and payment of debt service on outstanding bonds.

Mercer County was the first county to receive NJDEP approval for waste flow control after the Atlantic Coast decision. Under an amended plan, all solid waste generated within the county geographical boundaries is flowed to the Ewing Township transfer station and then to out-of-state landfills (the county's designated solid waste disposal facilities), as further described below.

Specifically, the county strategy that developed in response to the Atlantic Coast decision has two main components. The county determined that the existing contract with Waste Management Inc. for disposal of up to 4,500,000 tons of solid waste was non-discriminatory bid, since the landfills are located outside the State of New Jersey. On July 31, 2000, the Appellate Division ruled that the re-negotiation of Mercer's contract with Waste Management for the disposal of waste violated the Local Public Contracts Law. Though finding the contract invalid, the court did not immediately abrogate the contract and require re-bidding, but remanded the matter to the trial court to determine the appropriate remedies. The full impact of this decision on Mercer County's system will not be clear until the proceedings in the trial court are concluded.

The county also determined that the contract to operate the transfer station and provision of transportation services were solicited only for operation of a facility located within Mercer County. In order to re-establish flow control over solid waste in Mercer County, the MCIA undertook a "re-designation and re-procurement" process that allowed out-of-state facilities to

compete for the right to provide transfer and transportation services to Mercer County. The MCIA subsequently re-bid these contracts in a non-discriminatory manner to satisfy the Atlantic Coast requirements.

The current solid waste disposal system consists of a transfer station and property that is owned by the Township of Ewing, and leased by the authority, and a License Agreement with GROWS, WMI Property, Inc., and Waste Management of Pennsylvania. Specifically, all licensed haulers of solid waste generated in Mercer County deliver approximately 290,000 tons of non-recycled solid waste to the Ewing Transfer station annually. This waste is then compacted and loaded onto transfer vehicles for transportation to the landfills provided by Waste Management. The primary landfills used are the GROWS landfill located in Falls Township, Bucks County, PA, and the Tullytown Resource Recovery Solid Waste Disposal Area located in Tullytown Borough, Bucks County, PA.

The MCIA realized that the Atlantic Coast decisions could prevent the MCIA from requiring haulers to take the waste to the MCIA specified facilities, and thereby affects its ability to generate revenues through tip fees. There is evidently economic incentive for haulers to use cheaper out-of-state landfills. Part of the reason the MCIA has been realizing the tonnages required to fund operations and debt in its non-competitive stance was its willingness to re-negotiate the License Agreement providing for landfill disposal capacity at out of state landfills owned and operated by Waste Management. Waste Management benefits by receiving guaranteed disposal of all Mercer County solid waste at its landfills for the next 10 years, at \$45 per ton with a 3% escalator. Considering that Waste Management would have received little, if any, Mercer County waste after the construction of the Resource Recovery Facility, the benefits of such a long term agreement to Waste Management are obvious. This agreement also benefits the Mercer County ratepayer by providing fiscal stability by “locking in” pricing for solid waste disposal for the next ten years.

Mercer County believes the Amended License Agreement benefits accrue to Mercer County ratepayers in the following manner:

- complies with Atlantic Coast decision and creates a constitutionally permissible system of waste flow control;
- maintains a long term disposal option and realizes cost savings through the re-negotiated terms;
- avoids costly and time consuming litigation with Waste Management relating to the termination of the Agreement if disposal services were to be re-procured;
- maintains a system of flow control that will legally protect the ability of the MCIA to charge and collect tipping fees in sufficient amounts to cover the cost of operation and payment of debt service on outstanding bonds; and
- the MCIA continues to utilize a \$30 million asset (landfill rights) purchased in 1988.

As stated previously in this report, the courts have recently ruled that the re-negotiation of Mercer's contract with Waste Management for landfill disposal of waste violated the Local Public Contracts Law. A trial court will determine the full impact of this decision on Mercer County's system.

## **TRANSFER STATION**

The review team notes that the proximity of the transfer station to the landfill would indicate some cost savings on the tip fee if the transfer station is bypassed and trucks go directly to the landfill to dispose of solid waste. These efficiencies would reduce the tip fee by approximately \$19.85 per ton, including host community benefits, but would reallocate a portion of those costs back to those municipalities participating in the countywide collection contract. The municipalities hauling their own solid waste would incur the costs of transporting the waste the additional miles to the landfill, which include gasoline, maintenance and time traveling back and forth to the facility. We also note that the loss of lease fees and host community fees to the Township of Ewing would be significant. This could be offset by the sale or lease of the facility to a private vendor. Finally, the operation of the transfer station and provision of transportation services assists in the county's efforts to maintain flow control within Mercer County.

### **Recommendation:**

**We recommend that the MCIA provide the state with a cost/benefit analysis, by an independent consultant, of the continued operation of the transfer station in the county's plan, in both the flow control and non-flow control market. The cost/benefit analysis should contain a recommendation regarding whether such a facility should continue in the plan. We reserve the right to recommend further action regarding this asset until that time.**

## **CURRENT TIP FEE BREAKDOWN AND COMPARISON**

	<b>1998</b>	<b>1999</b>	<b>2000</b>
Landfill Disposal Costs	\$45.00	\$46.35	\$47.74
Transfer Operations	\$9.19	\$9.19	\$9.19
Enforcement/Scalehouse	\$2.62	\$2.82	\$3.16
Administration	\$3.32	\$7.07	\$9.77
<b>Subtotal</b>	<b>\$60.13</b>	<b>\$65.43</b>	<b>\$69.86</b>
Solid Waste Debt Service	\$33.62	\$28.32	\$23.89
Curbside Collection Program	\$0	\$0	\$0
Host Community Benefits	\$4.50	\$4.50	\$4.50
<b>Total Tip Fee</b>	<b>\$98.25</b>	<b>\$98.25</b>	<b>\$98.25</b>

The 1999 total rate for Municipal, Transferred waste (Type 10T) was \$98.25, a reduction of \$19.08 in the tip fee, which was \$117 before the unbundling of recycling expenses. The total 1999 rate for Municipal, Non-transferred waste (Type 10N), bulky waste, and industrial waste is



\$89.06, reflecting the avoidance of the transportation expense and most of the transfer operational expense. Based on 260,000 tons annually (the basis for the authority budget), the 1999 blended tip fee is expected to generate \$24,678,101.

Mercer County has a population of 325,824 consisting of 13 municipalities covering 226 square miles. NJDEP tonnage records for 1993 – 1997 indicates that an average of 290,000 tons of solid waste (excluding recyclable waste) is processed annually through the MCIA solid waste disposal system. The actual tonnage received at the transfer station in Ewing Township for the first three months of 1998 totals 75,665. Using 290,000 tons received annually through the solid waste disposal system, the 1999 tip fee would have generated approximately \$28,492,500. We believe 290,000 tons is a more accurate estimate of tonnages processed by the county, and would expect this tonnage to have generated approximately \$3.8 million in additional revenues in 1999. These revenues are offset by the tipping fees and associated per ton costs.

As in prior Partnership Agreement reports, we use a benchmark to measure progress toward the stated goal of reducing the tipping fee to a competitive level. For the MCIA, for every \$290,000 in cost reductions, cost reallocations, and new revenues achieved, the tipping fee can be reduced by approximately \$1. To achieve a reduction from the current \$98.25 per ton to approximately \$55 per ton, a difference of \$43.25, or changes yielding a \$12,542,500 net difference in the annual budget would have to be found.

We note that built into the tipping fee for 1998 and 1999 are “reserve” funds for a \$5 million increase in debt service payments beginning in 1999, and is collected in 1998 in order to develop a “Reserve” that can be used to maintain a level tipping fee in coming years. The combined debt service for 1998 is \$6,656,207. Based upon 260,000 tons received annually, the debt service component of the tip fee for 1998 should be approximately \$25.60. However, the tip fee components for 1998 indicate that \$32.17 is being collected for debt service, and the MCIA therefore anticipates collecting an additional \$2.1 million in “reserve funds”. Since the MCIA 1998 budget is based on receiving 260,000 tons annually, and monthly reports indicate an increase in tonnage received at the transfer station, the surplus generated for 1998, approximately \$1.7 million will partially offset the \$5 million spike in debt service in 1999.

The tip fee for 1998, without recycling services, is \$98.25. However, \$18.35 per ton has been collected by the authority for recycling services until June 1, 1998. At five months, assuming 22,000 tons per month, this would amount to approximately \$2,018,500. According to authority officials, this amount is used to support solid waste operations. Since the recycling revenue has been removed from the solid waste tip fee, the authority raised the enforcement portion of the tip fee from \$2.62 per ton in 1998 to \$3.16 per ton in 2000, a 3.22% increase from 1999. The costs for administration rose again in 2000, from \$7.08 to \$9.77 per ton, a 9.95% increase. In contrast, the solid waste debt service component of the tip fee dropped from \$28.32 to \$23.89 per ton, even though the debt service for 2000 increased by \$463,728 to \$12,042,388. This included a deposit of \$2,173,340 to the special reserve fund in April. This is the last deposit required by the authority, and it will begin to draw on its reserve fund to offset debt service payments beginning in 2001.

The combined debt service for 1999 is \$11,578,660. Based upon 260,000 tons received annually, the debt service component for 1999 should be approximately \$44.53. The total operating costs for solid waste disposal in 1999 were \$65.43/ton (includes disposal and administrative costs); and host community benefits are expected to remain stable at \$4.50. The operating costs for 2000 are \$69.86 per ton, generating approximately \$18.1 million in revenues based on 260,000 tons.

Despite the fact that solid waste flow control has provided the authority with the mechanism to fully fund all operational and some debt service accounts at present, the noncompetitive disposal rate being charged to users of the system remains a concern. Although it was prudent to be conservative in its budget projections due to the possibility of fiscal instability resulting from the Atlantic Coast case, and a debt service increase in 1999, significant effort should be made to expeditiously reduce this rate to a competitive rate in a long-term solution.

Reduction of the tip fee may be possible through direct tipping at the Waste Management Landfill, and the avoidance of costs associated with transportation and transfer station utilization. This could be accomplished after the feasibility study recommended in another section of this report is complete, and all parties meet to discuss the best service delivery option for Mercer County.

#### **Recommendation:**

**Once a long term solution to Mercer County's solid waste debt problem has been identified and implemented, the MCIA should discontinue the practice of raising "surplus" funds through the solid waste tip fee. Any additional revenue generated through increased tonnages should be used to buy down solid waste debt.**

**If at any time in the future additional assets purchased with solid waste debt or any other accounts funded by solid waste debt/tip fees are identified by the state, we reserve the right to recommend the use of these proceeds to further reduce the debt obligation of the county or county authority.**

The current tipping fee of \$98.25 per ton is not competitive in the current solid waste market. Mercer's geographical location is in close proximity to the Pennsylvania landfills, which are charging significantly less per ton for disposal. Although the MCIA has been successful in retaining the tonnages received at the transfer station through the re-establishment of flow control, every effort should be made by the MCIA to reduce the tipping fee to a market competitive level.

#### **Recommendation:**

**The MCIA has been successful in continuing to adequately fund operational and some debt service accounts and to maintain an average of 290,000 tons of non-recyclable waste**

**annually. Even so, to ensure the long-term viability of the county solid waste management system, the MCIA should prudently reduce its tonnage fee to the greatest extent possible to achieve a market competitive rate.**

### **SOLID WASTE DISPOSAL CONTRACTS**

As we previously noted, on August 21, 1997, in anticipation of the eventual loss of solid waste flow control due to the Atlantic Coast decision, the Mercer County Board of Chosen Freeholders amended the Mercer County Solid Waste Management Plan to include, among other things, the re-procurement of transfer station services in a non-discriminatory manner. Subsequently, bids were advertised and received on November 5, 1997 for the provision of solid waste transfer and transportation, and yard waste transfer and transportation services. Bids were received from Longview of Mercer County, Inc., Geological Reclamation Operations and Waste Systems, Inc. (GROWS) and Chambers Waste Systems of NJ, Inc. After review, Longview of Mercer County, Inc. was recommended for award as the lowest responsible bidder at a price of \$9.19 per ton for the transfer and transport of solid waste, and \$13.95 per ton for the transfer and transport of yard waste. The contract, commencing on December 1, 1997, runs for a period of five years. On November 10, 1997, NJDEP certified the August 21, 1997 Plan Amendment approving the transfer station bid process with modifications contingent upon receipt by the NJDEP of documents awarding a non-discriminatory bid contract to provide said services.

#### **Recommendation:**

**We recommend that Mercer and Atlantic County officials engage in negotiations to resolve the current lawsuit regarding the inter-district agreements in an expeditious manner. State participation in the solution to Mercer County's debt service problems will be contingent upon a settlement between the two counties.**

### **CURBSIDE RECYCLING PROGRAM**

The MCIA administers the county's curbside recycling program, which includes single family and multi-family residential collection. Other environmental services provided by the MCIA include hazardous waste disposal, Clean Communities Litter Abatement Program, and environmental education programs offered to schools, residents, community organizations and businesses. The authority also implemented a curbside collection program for grass clippings, which was discontinued this year as a result of discussions between county and municipal representatives. Each municipality will now be responsible for managing the collection of grass clippings. In 1998, the MCIA instituted a Mulching Blade Rebate program to encourage grass recycling to reduce costs and increase recycling. These program costs are offset by a NJDEP Solid Waste Services Tax grant.

At the time of the review, eleven municipalities in Mercer County have agreed to contract with the county for recycling services. Whether they choose to contract with the county for recycling services or do it themselves, municipalities are still required to meet or surpass mandatory recycling goals.

NJDEP required the county to submit an administrative action plan that delineates how Mercer County will meet or surpass the state's mandated recycling goals and provide for materials recovery. In a letter dated February 17, 1998 to the NJDEP, the county outlined its actions regarding recycling goals and materials recovery services. The Mercer County Board of Chosen Freeholders established a blanket inclusion process for permitted material recovery processing facilities for inclusion in the Mercer County District Solid Waste Management Plan. The county also intends to provide recycling services to municipalities on a voluntary basis. Their letter further states, "All generators of solid waste located in Mercer County will continue to comply with the provisions of the Recycling Plan, as amended, in order to maintain and exceed the above-stated goals."

The MCIA points out that the county has established an exceptional program of recycling through its residential curbside program, and has met or exceeded the 60% recycling goal each year since 1990. The MCIA has also entered into long term marketing contracts for mixed paper and commingled materials that produced over \$769,000 in revenues in 1998. As stated previously, the authority will provide recycling services on a voluntary basis with the 13 municipalities of the county to be paid by users of the services. The total recycling income for 1998, including recycled material revenues, was \$2,683,767. The MCIA advised us that recycling contracts with the municipalities will enable the authority to meet all costs associated with the recycling program.

#### **BUDGET ANALYSIS - SOLID WASTE OPERATIONS**

	<b>1998 Budget</b>	<b>1999 Budget</b>	<b>2000 Budget</b>
Operating Revenues	\$29,849,864	\$26,852,553	\$27,432,746
Non Operating Revenues	\$1,444,697	\$1,700,800	\$1,343,484
<b>TOTAL REVENUES:</b>	<b>\$31,294,561</b>	<b>\$28,553,353</b>	<b>\$28,776,230</b>
Salary & Wages	\$1,639,278	\$1,683,223	\$1,949,865
Fringe Benefits	\$455,994	\$419,749	\$441,637
Other Expenses	\$20,271,794	\$18,612,635	\$20,314,088
Debt Principal Payments	\$190,000	\$1,610,000	\$5,111,078
Debt Interest Payments	\$1,424,396	\$2,342,472	\$4,757,310
Treasury Strip Purchase	\$7,183,099	\$3,509,774	(\$3,657,658)
<b>TOTAL APPROPRIATION:</b>	<b>\$31,164,561</b>	<b>\$28,177,853</b>	<b>\$28,674,730</b>
Less: Retained Earnings*	(\$130,000)	(\$375,500)	(\$101,500)
<b>NET TOTAL:</b>	<b>\$31,294,561</b>	<b>\$28,553,353</b>	<b>\$28,776,230</b>

\*Represents estimated budget excess revenues over expenditures.

Disposal costs have been reduced from \$16,837,568 in 1997 to \$12,051,000 in 1999 based upon the re-negotiation of the Licensing Agreement which delineate tipping fees at the Waste Management landfills. Transfer station fees remained relatively steady at \$1,490,000 for 1998. Debt service is budgeted at \$8,797,495, although 1998 debt service is \$6,656,207, to provide for a reserve to stabilize the debt service component of the tip fee in 1999.

The relocation of MCIA offices from River View Executive Park to the County Administration Building has saved \$538,375 annually in rental and common area charges. The 1997 budgeted disposal costs accounted for 65.15% of solid waste operating costs. Salaries and benefits account for 6.78%, transfer costs 4.63%, and host benefit and recycling taxes account for 3.72%. Recycling operations accounted for 17.30% with reimbursable projects accounting for 2.42%.

### **Recommendation:**

**At the time of the review, monthly cash flow projection estimates for the solid waste operation provided by MCIA officials indicate that all debt service requirements, bond covenant requirements and operating requirements are being met through collection of tipping fees. However, a spike in debt service occurring in 2000 and beyond results in some debt service requirements being met. In order to meet operating and debt service requirements, Mercer must identify a long-term solution that incorporates debt restructuring.**

## **ACCOUNT BALANCES**

An analysis of MCIA bank balances through July 2000 indicate the following funds available for solid waste operations:

General Operating Fund	\$ 1,502,210
Solid Waste Operations	\$ 4,261,404
Solid Waste Series 1992	\$ 8,230,093
Solid Waste Series 1997	\$ 2,155
Solid Waste Junior Lien 1990	\$ 39
Sludge Series 1990 Ref. 1993	\$ 4,763,180
Sludge EPA Grant	\$ 644,243
Resource Recovery 1992	\$ 22,092
Resource Recovery 1996	\$ 4,949
Special Reserve Fund	\$31,489,631*

\*Investments consist of US Treasury Note Stripped (Special Reserve Fund at 5.69%) and Goldman Sachs Treasury Instruments (Reserve Fund at 4.73%).

### **Recommendation:**

**Any accounts funded by solid waste debt/tip fee proceeds should be used to further reduce the debt obligation of the county or county authority in conjunction with a restructuring of**

the debt through a state sponsored issuance, when passage of legislation occurs. This recommendation is further clarified in the recommendations contained on pages (17 – 18) of this report.

### **HOST COMMUNITY FEES**

N.J.S.A. 13:1E-28.1 requires that a municipality within which a transfer station is located pursuant to an adopted and approved district solid waste management plan shall be entitled to an economic benefit not less than the equivalent of \$0.50 per ton of all solid waste accepted at a transfer station. As a result of this statute, the MCIA and the Township of Ewing entered into a Host Community Benefit agreement. The following is a synopsis of that agreement.

The Township of Ewing leases the transfer station to the MCIA for an annual fee of \$165,000. An additional \$10,000 is paid to the Carolyn Stokes Day Care center for a nursery buffer fee. Besides the lease payment, the Township of Ewing receives \$4.50 per ton of solid waste, excluding recyclables, that is delivered to the Transfer Station for disposal. Based on 260,000 tons received annually at the transfer station, the Township of Ewing would have received \$1,170,000 in 1998 in HCB fees. The total annual payment to the Township of Ewing, including the lease payment, nursery school buffer zone payment and HCB fees, is \$1,355,000.

#### **Recommendation:**

**The review team notes that the Authority solid waste plan amendment and strategy provides for the full funding of all operating accounts and some debt service accounts at the present time. However, every effort should be made to reduce the tip fee to a market competitive level.**

**We recommend Mercer County renegotiate the Host Community Benefit (HCB) Agreement with the Township of Ewing to reduce the HCB. We further recommend that in lieu of such a negotiated reduction, Mercer County budget the Host Community Benefit until such time as it can be incorporated into a competitive tip fee.**

### **SOLID WASTE DISPOSAL CONTRACTS**

As we previously noted, on August 21, 1997, in anticipation of the eventual loss of solid waste flow control due to the Atlantic Coast decision, the Mercer County Board of Chosen Freeholders amended the Mercer County Solid Waste Management Plan to include, among other things, the re-procurement of transfer station services in a non-discriminatory manner. Subsequently, bids were advertised and received on November 5, 1997 for the provision of solid waste transfer and transportation, and yard waste transfer and transportation services. Bids were received from Longview of Mercer County, Inc., Geological Reclamation Operations and Waste Systems, Inc. (GROWS) and Chambers Waste Systems of NJ, Inc. After review, Longview of Mercer County, Inc. was recommended for award as the lowest responsible bidder at a price of \$9.19 per ton for

the transfer and transport of solid waste, and \$13.95 per ton for the transfer and transport of yard waste. The contract, commencing on December 1, 1997, runs for a period of five years. On November 10, 1997, NJDEP certified the August 21, 1997 Plan Amendment approving the transfer station bid process with modifications contingent upon receipt by the NJDEP of documents awarding a non-discriminatory bid contract to provide said services.

Subsequently, on November 24, 1997, the Authority entered into an agreement with Longview of Mercer County, Inc. to provide transfer services of solid waste and yard waste. Under the terms of this agreement, Longview would furnish all labor, materials, plans, tools, supplies, equipment, transportation, licenses, permits and other necessary or proper items to transfer the Authority's solid waste and yard waste. The contract calls for a price of \$3.78 per ton that is processed and transferred onto transfer trailers. Longview must be capable of accepting and processing up to 1,000 tons of acceptable waste from the MCIA during any peak operating day. A separate contract for transportation of solid waste and yard waste was entered into on November 24, 1997 with Longview of Mercer County, Inc. The contract calls for a price of \$5.41 per ton of solid waste that the MCIA causes to be delivered to the transfer station and that Longview transports to the USA Waste landfills in Pennsylvania. Yard waste is priced at \$10.17 per ton that is transported to the USA Waste landfills.

The authority executed a license agreement, dated February 17, 1988, with Geological Reclamation Operations and Waste Systems, Inc. (GROWS), WMI Properties, Inc. and Waste Management of Pennsylvania, Inc. providing for, among other things, acquisition of landfill capacity at the Waste Management sanitary landfills for the purpose of depositing up to 4,500,000 tons of non-recycled solid waste during the term of the License Agreement.

As a result of the Atlantic Coast decision, the MCIA intends to utilize the License Agreement under the Revised Implementation Plan. The MCIA reduced its cost of disposal to reflect the Revised Implementation Plan and pay a geographic market rate for current solid waste disposal. The License Agreement expires in December, 2007, and has a capacity agreement of not more than 1700 tons/day, 45,000 tons monthly, or 300,000 tons annually. For 1998, the operations and maintenance fee for solid waste disposal at the landfill is \$45.00/ton, with a 3% escalator for every year thereafter. Although this price is higher than current rates at surrounding landfills, it must be balanced with locking in disposal contracts for a 10-year period, when market prices are still fluctuating and may result in higher tips fees in the future than the MCIA will pay.

The \$5.41 per ton for hauling charges, and \$45 for disposal charges equates to \$50.41 for solid waste disposal services. An additional charge of \$3.78 per ton is required for the transfer of solid waste under the contract with Longview, therefore, the total charge for hauling, transfer and disposal is \$54.19 per ton. Based upon MCIA's projected 260,000 tons annually that are processed at the transfer station, the costs for solid waste hauling, transfer and disposal are \$14,089,400.

## SOLID WASTE LONG TERM DEBT SERVICE

	Principal	Interest	Spec. Res. Fund	Total
Resource Recovery Obligations	\$44,980,000	\$29,930,475	0	\$74,910,475
Site & Disposal Facility	\$70,982,201	\$117,037,799	(\$46,636,661)	\$141,484,339
Combined Debt Service	\$115,962,201	\$146,968,274	(\$46,636,661)	\$216,293,814

A schedule of out-standing long-term debt for solid waste disposal services is attached to this report. The MCIA issued Site and Disposal Facilities Solid Waste Revenue Bonds, Series 1988 in the amounts of \$47,855,000 and \$13,170,000, for the development of the solid waste system, purchase of landfill rights at GROWS, developing the transfer station, recycling programs and RRF development costs. These bonds were refunded in part in 1990 with the issuance of \$25,814,252 in Junior Lien Bonds and in 1992 with the issuance of \$45,167,948 in Site and Disposal Facilities Solid Waste Revenue Bonds (Refunding Series 1992).

The authority also issued \$139,485,000 in Solid Waste Revenue Bonds (RRF Project, Series 1988) for construction of the RRF. These bonds were refunded in 1992 by issuing \$189,997,154 in Solid Waste Revenue Bonds (RRF Project, Series 1992 A & B). After the continued development of the RRF was negated by a vote of the Mercer County Board of Chosen Freeholders in November of 1996, the authority issued \$44,980,000 in County Guaranteed Solid Waste Bonds, Series 1997 to provide, together with other available funds, for the special redemption of all of the Solid Waste Revenue Bonds, Series 1992 in the amount of \$204,630,070, retirement of Series 1996 B Notes in the amount of \$5,450,625, payment of the required Ogden Martin termination fee and authority development costs of \$3,400,000, and costs of issuance in the amount of \$644,731.

To meet debt service obligations associated with the above bond issuances, the authority implemented the following strategy to collect these costs from users of the solid waste system. The MCIA assesses users of the system their proportionate share of the debt service obligations based on actual usage. This is currently being carried out as a component of the overall tipping fee for the system. The MCIA believes this strategy is most beneficial for the ratepayers of Mercer County because it provides for equitable payment based on actual usage, and it encourages recycling in order for municipalities to continue to meet their 60% - 65% recycling goals.

### Recommendations:

**We recommend that, in order to reduce the annual debt service component of the tipping fee, the MCIA refund its debt through a state-sponsored issuance. The debt restructuring would use the following funds to buy down debt:**



<b>State Grant</b> (equivalent to Bond Act Appropriation)	<b>\$10.4 million</b>
<b>MCIA General Operating Fund</b>	<b>\$ 1.0 million</b>
<b>MCIA Solid Waste Operations</b>	<b>\$ 3.0 million</b>
<b>MCIA Solid Waste Series 1992</b>	<b>\$ 8.2 million</b>
<b>MCIA Solid Waste Series 1997</b>	<b>\$ 0 million</b>
<b>MCIA Special Reserve Fund</b>	<b><u>\$31.0 million</u></b>
<b>Total Funds:</b>	<b>\$53.6 million</b>

**Contingent upon passage of solid waste debt refinancing legislation, we recommend refinancing outstanding debt over thirty years and, as part of this long term solution for Mercer County, we further recommend that the county pay toward debt service an annual amount equal to \$20 per ton multiplied by 290,000 tons (a five year average of solid waste tonnage generated in Mercer County). After such payment, and, again, contingent upon passage of legislation and restructuring through the authority, we recommend that the state subsidize the remaining debt service over the course of the restructured debt subject to state appropriation.**

**If at any time additional assets purchased with solid waste debt, any other accounts funded by solid waste debt, or the proceeds of any settlement related to such debt are identified by the state, we reserve the right to recommend the use of these proceeds to further reduce the debt obligation of the county or county authority.**

## **PROFESSIONAL SERVICES**

In addition to being the implementing agency for solid waste disposal in the county, the Mercer County Improvement Authority (MCIA) also issues primarily tax exempt bonds to finance various construction projects, and enters into leases and agreements with the applicable agency for design, acquisition and construction, as well as project management and acceptance. All project costs are paid by the bond trustee after approval by the MCIA. During the lease, the Lessees pay for the operation, maintenance, repair, utilities, taxes and charges in connection with the projects. Current and past projects include the Trenton Thunder Baseball Stadium, County golf course, the Arena project, Special Services school project, County Court House, Farmland Preservation, and other various construction projects. The MCIA allocates salary and certain administrative expenses identified with a specific project to construction in progress and to the equipment lease program. As a result, professionals and consultants are required to ensure regulatory compliance and adequate project management in carrying out the authority mission. These experts include financial advisory services in connection with the sale of permanent bonds and BANS, pre-construction and construction consulting services, environmental consulting services, legal and engineering consultants, and other standard professional contracts. All contracts were on file, properly executed and made available for inspection by the team.

## **ADMINISTRATION**

As part of our Partnership Reviews, we analyze administration and operations for possible cost savings, and resultant decrease in the tipping fees charged to waste generators in Mercer County.

## **EXECUTIVE DIVISION**

The MCIA currently funds most of its costs through project fees charged to individual projects currently underway, such as a planned ice rink, golf course development, library improvements, and its solid waste disposal services contracts with Longview, Waste Management and the associated tipping fees.

The executive division of the MCIA currently consists of an executive director, two executive assistants, a receptionist, an employee benefits manager, and a clerk to the board. This report suggests that there could be some reorganization in this area designed to save tax dollars and improve efficiencies. One of the most obvious changes is the placement of the benefits manager under the chief financial officer. Presently, this individual reports directly to the executive director without oversight by the chief financial officer. In an era of cost containment and financial oversight, it is strongly recommended that this position be accountable to the finance area and report directly to the CFO.

The executive director of the MCIA enjoys the privilege of having two executive assistants who provide background, research and general assistance in the daily operations. While it is true most of the staff enjoy funding through various projects, administrative costs usually are passed down the line to the taxpayer through general administrative costs delineated in the budget. In this instance, the review team recognizes the successes of the MCIA but does not feel that two aides are necessary when other improvement authorities with the same missions reflect very small staff. It seems appropriate that the MCIA could function quite normally with one assistant, noting the expertise of the executive director and the remainder of his staff. The executive director still maintains a staff of three individuals designed to aid in carrying out the mission of the improvement authority; the review team feels the proposed staff compliment is sufficient to carry out its objectives. The team was advised that subsequent to our review, the MCIA has aligned the benefits manager under the Chief Financial Officer, and abolished an executive assistant position to the Executive Director, with a cost savings of \$35,603.

## **FINANCE**

Currently, the finance division is directed through the CFO, an assistant accounting supervisor and a staff of four other individuals who lend support to the operation. Three of the four positions add clerical support to the accounting system although one individual acts as the secretary to the CFO. The payroll and employee benefits position currently reports directly to the executive director; a change in this organizational structure will be forthcoming.

The most significant change we recommend in finance, the employee benefit manager reassignment, has already been implemented by the MCIA. A minor change is to place a second level accounting position directly under the chief financial officer and in a comparative position to the benefits manager. Directly beneath this position, the finance function has traditionally been separated into both accounts payable and accounts receivable. Currently, the finance area is being upgraded with computer enhancements, budgeted in the improvement authority capital budget. This should negate the need for two positions in this specific area. Therefore, we recommend the elimination of one of the two account clerk positions, with these duties consolidated under one account clerk.

**Recommendation:**

**The review team recommends the continuing upgrading of computers, and the reduction by one position in the accounts receivable area. Cost savings are \$43,950, with benefits.**

## **ENGINEERING**

According to MCIA officials, the engineering department consists of a director, three construction managers and one secretary. The review team found that the MCIA is currently staffed with five individuals that lend general clerical support activities to staff. While the authority does allocate some clerical costs to projects, the team finds that the clerical staff supported through solid waste operations is possibly overstaffed. The costs currently reflected in solid waste clerical support could be reduced by cost sharing in other divisions. The use of computers and professional skills used in this area grows daily. We suggest the engineering group share clerical staff, especially at the receptionist level, since there is both a full time assistant and a clerk to the board already available in the executive area.

**Recommendation:**

**The team recommends eliminating the position of secretary assigned to the engineering area in favor of position sharing. Cost savings are \$39,287, with benefits.**

## **PLANNING**

The MCIA has expanded its role in Mercer County to develop plans and programs to enhance its ability to control and collect trash in Mercer County. To that end, the MCIA developed programs in areas of recycling, trash containment and disposal, and initially, sludge de-watering. Mercer has done a good job in planning for the future, and has designed systems that now control these processes for Mercer County communities. The MCIA has also achieved a degree of flow control despite deregulation through non-discriminatory bidding without directly affecting its tipping fee charged for solid waste disposal. This achievement, though it is being tested in the courts, should be cited as an example of continued funding in areas where most counties cannot claim this success. However, this stability suggests that some initial start up planning is no

longer needed despite numerous activities in other areas of public project funding. Solid waste planning is certainly a vehicle which drove many of the counties into “planning” to look for qualified individuals to account for various programs as envisioned by the NJDEP. In the face of long term debt, counties have sought to reduce spending on solid waste, and have in many areas reduced costs through contracted services or debt refinancing. MCIA has already taken the steps of reducing its staff and refunding debt in the face of these changes. However, the team suggests that one of the solid waste planners could be phased out since most operations are now successfully contracted. While it is true that the MCIA continues to develop other projects, and we encourage this process, we also suggest that the MCIA reduce its own staff further in comparison with other improvement authorities across the state.

In addition, the team recommends that the recycling operation be removed from the planning division and become its own section reporting directly to the executive director. Currently, a recycling director earns somewhat less than the planning director, but enjoys a salary that certainly evidences a level of professionalism and expertise that could well represent this area directly to the director. Therefore, we recommend this area be removed from planning in favor of its own autonomous status.

#### **Recommendation:**

**We recommend reducing the planning staff by one solid waste planner/recycling at a cost savings of \$43,809, with benefits. We also recommend the realigning of the planning division by removing the recycling section and placing it under its own division.**

### **RECYCLING**

Recycling is currently organized under the planning chief as has been the tradition in the MCIA. It is staffed by a recycling coordinator, a supervisor, and a solid waste specialist. These positions are funded through grants and provide educational assistance to residents, schools, and businesses throughout Mercer County.

#### **Recommendation:**

**We recommend that the recycling operation continue to provide its own funding sources through municipal contracts and state grants. We also recommend the recycling division report directly to the executive director. The team has been recently advised that a planner will be moved to the currently vacant position of recycling supervisor, and that the recycling coordinator will report directly to the executive director.**

### **ENFORCEMENT**

Currently, NJDEP recognizes flow control in Mercer County. As a result, the team also recognizes the need to control flow within the county and the haulers that do business in the

county. Therefore, we are recommending only minor changes in this area. Initially, we suggest the enforcement section join with planning to engage the services of a clerical employee. Again, we realize the needs in enforcement may require some amount of paper flow, but we also recognize enhanced computer skills could make this activity somewhat obsolete. Additionally, we recommend the remaining enforcement monitors become proficient in the operation of computers and that they be made available at the transfer station. Currently, the MCIA retains five enforcement officers and one inspector to control waste flow. In addition, it provides for two scale masters and two substitutes who also work in enforcement. The team recommends this staff could be reduced by one enforcement officer in light of the tonnage brought to the transfer station, the size of the county, and the possibility of cross training, especially at the inspector's level. Additionally, the inspector's job could be a negotiated item with Longview regarding that organization's continued relationship and its desire to remain as the singular operator of the transfer station.

**Recommendation:**

**We recommend phasing out one of the enforcement officers positions following cross training for a savings of \$36,012, with benefits. We also recommend computer training for enforcement personnel, and the sharing of secretarial services with both planning and the enforcement receptionist. The position of administrative clerk assigned to enforcement should be phased out at a savings of \$42,151.**

**MCIA officials have informed the team that cross training of enforcement officers will be performed.**

**Total positions affected by the recommendations would be six, with a total cost savings of \$240,812.**

## **LOCAL GOVERNMENT BUDGET REVIEW**

Roland M. Machold, State Treasurer  
Peter Lawrance, Deputy State Treasurer  
Robert J. Mahon, Director, Local Government Budget Review

Ulrich Steinberg, Director, Division of Local Government Services  
Howard Izes, Bureau Chief of Authority Regulation, Division of Local Government Services

Robert C. Shinn, Jr., Commissioner, Department of Environmental Protection  
Gary Sondermeyer, Assistant Commissioner, Department of Environmental Protection  
John Castner, Director, Division of Solid Waste, Department of Environmental Protection

### **Local Government Budget Review Team**

JoAnne M. Palmer, Deputy Director  
Local Government Budget Review

David Cockerham, Local Government Budget Review  
Matthew DeKok, Local Government Budget Review